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Letter dated 2 June 2016 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council

I have the honour to enclose herewith a copy of the reply sent on 19 February 2016 to the Special Representative of the Secretary-General on Sexual Violence in Conflict (see annex), in which we explain, as requested, the circumstances surrounding sexual violence in Darfur, which were addressed in the draft report of the Special Representative dated 9 February 2016 and later reflected in the report of the Secretary-General to the Security Council dated 20 April (S/2016/361, paras. 63-67).

I should be grateful if the present letter and its annex were circulated as a document of the Security Council.

(*Signed*) Omer Dahab Fadl Mohamed
Permanent Representative

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Annex to the letter dated 2 June 2016 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council

[Original: Arabic]

The Permanent Mission of the Republic of the Sudan to the United Nations presents its complements to the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict. In reference to the note verbale from the Office of 11 February 2016 requesting the comments from the Mission on the paragraphs concerning the Sudan in the annual report of the Office, it gives us pleasure to transmit to you the following comments:

1. The draft report relies primarily on information obtained from a number of secondary sources, but mainly the African Union-United Nations Hybrid Operation in Darfur (UNAMID). As we shall make clear below, our Mission has strong reservations about the information supplied by UNAMID, the sources from which that information was obtained, and the selective manner in which it was presented. In that regard, we wish to draw your attention to the last preambular paragraph of Security Council resolution 2228 (2015) of 29 June 2015 concerning the extension of the mandate of UNAMID, which reads as follows: "[The Security Council], taking note of the completion of the review commissioned by the Secretary-General on 2 July 2014 into the issue of under-reporting, and allegations of manipulation of reporting, by UNAMID . . ."

2. Your report states that patterns of ethnically motivated sexual violence, as a vehicle of punishment, persecution and forced displacement, have been taking place for almost 15 years, and insinuates that sexual violence is being perpetrated by ethnic Arabs. That completely ignores the reality of the conflict in Darfur, which is rooted in struggles over limited water and agricultural resources owing to grave environmental degradation in the region. The attribution of an ethnic dimension to the conflict only serves to inflame it further. It is dangerous to rely on oral statements from persons whom the draft report does not identify. Indeed, the report does not even give the names and qualifications of the parties or persons who conducted the interviews. We would like to point out a basic truth about Darfur, which is that the ethnicities of its inhabitants are intermingled, and a person's ethnic background cannot be identified on the basis of the language that he or she speaks. The population in Darfur does not consist of distinct ethnic groups, but rather of overlapping linguistic groups. Arabic is the prevailing language spoken by all the groups. The draft report itself states that in a number of cases, the victim was not able to identify the assailant, who covered his face with a mask. Unfortunately, assumptions about such differences and inaccurate characterizations of the role they play only serve to prolong the conflict and lead to less receptiveness to a political solution and more efforts to sidestep it. We remind you that the conflict in Darfur broke out in April 2003 after a rebel attack on the city of El Fasher in North Darfur, and spread more widely in 2004. We also completely reject the assertion about disappearances and forced displacement, which is riddled with political prejudices. A simple numerical accounting would refute once and for all the claim about all this having gone on for 15 years.

3. To say that there is no security or rule of law in Darfur is a sweeping and baseless generalization, when in fact the army, the police and the security forces are

trying to enforce the law and establish security. The draft report is quick to repeat accusations made by lawbreakers against those forces, even though it also notes that the uniform of the regular armed forces worn by some perpetrators can be purchased at local markets. We might add that the uniforms of the regular armed forces of neighbouring States are also widely available in markets. We would also like to draw the Special Representative's attention to figures in the 2015 report of the Darfur prosecutor that refute this unfounded allegation.

4. We note that the report completely fails to mention a number of those accused of committing various crimes, including crimes of sexual violence. It ignores figures released by the Ministry of Justice, the Sudanese legal system, the Transitional Darfur Regional Authority and the governors of the five Darfur States, all of which are legitimate sources that are part of the national Government that is sovereign in all parts of the Sudan. The Office of the Special Representative would have done better to obtain information from those sources. It would have been easy enough to sit and conduct a "cross examination" with them, instead of relying on lawbreakers and members of armed groups that are naturally as ready to fight the Government with false testimony as they are with weapons.

5. Even if, for the sake of argument and in spite of what we pointed out in paragraph 1 above, we accept the UNAMID figures, a comparison of the 80 instances of sexual violence supposedly documented by UNAMID in Darfur and cited on page 1 of the report with the 45 cases cited by that same document as having been referred to judicial hearings would not support the report's allegations of an absence of law and order in Darfur. The total number of reports heard by the special tribunal for Darfur in 2015 was 157, with 272 suspects arrested and 102 sessions of the special tribunal being convened. Even if, for the sake of argument, we accept that UNAMID documented hundreds of cases of sexual violence, as claimed in the report, that would constitute an admission of its failure to carry out its duties under the Status of Forces Agreement, which requires it to coordinate and exchange information with the competent national authorities.

6. The allegation of the mass rape of an estimated 200 women and girls by the Sudanese armed forces in Tabit on 30 October 2014 is false. We recall that the report of the Tripartite Mechanism formed by the Government of the Sudan, the United Nations and the African Union, which had reached a consensus on a plan for a limited withdrawal by UNAMID, was invalidated, and that the first UNAMID report on the events at Tabit on 9 November 2014, which denied that members of the Sudanese armed forces had committed rape in the village of Tabit, was also invalidated, and unfortunately followed by a request from the Secretariat for UNAMID to reinvestigate for the purpose of issuing a report that would condemn the Sudanese armed forces. Such conduct, unprecedented in any United Nations mission, belies claims by the people involved that they are neutral and objective. The normal and fair thing to do would have been to report the circumstances surrounding the events at Tabit instead of haphazardly hurling wholesale accusations with no legitimate basis about the Sudanese Armed Forces perpetrating a rape in the village of Tabit. That allegation has been angrily denied by inhabitants of the village. According to the report, 53 per cent of crimes of sexual violence were committed in isolated areas, but the report fails to indicate explicitly that they are being committed in the remaining isolated pockets held by armed groups.

7. Regrettably, in addition to the above evidence of the lack of objectivity in the section of the draft report on the Sudan, we must also ask ourselves why, if the report covers the period from January to December 2015, it includes these events, which took place in 2014.

8. We note with regret that the report neglects to mention instances of sexual violence committed by UNAMID personnel. For example, on 8 September 2015, UNAMID notified the United Nations Department of Peacekeeping Operations of a report filed by a rape victim in the city of El Fasher on 4 February 2015. Subsequently, on 18 September 2015, UNAMID informed the Department of Peacekeeping Operations what measures have been taken in that regard. We remind you of the zero-tolerance policy followed by the United Nations since 2003, and of paragraph 28 of Security Council resolution 2228 (2015) concerning the extension of the UNAMID mandate, which requires reporting on incidents of violence and attacks against civilians by whomsoever perpetrated.

9. With all due respect, and begging your pardon, we are obliged to wonder: since, in preparing this draft report, the Office of the Special Representative of the Secretary-General has relied almost entirely on UNAMID reports, why does it not suffice with those reports, which are submitted to the Security Council on a quarterly basis? What is the need for this overlap and waste of resources? Fairness would dictate that your esteemed Office should investigate all the relevant facts, including the reports of the Government of the Sudan, which is the national sovereign authority in this case. On the question of visas, we would like to refer you to the indisputable facts contained in the UNAMID quarterly report of September 2015.